

FILED 11 MAR 14 13:30 USDC ORP

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

LORI BACHMAN,

Plaintiff,

v.

ORDER

GENESIS INVESTMENTS, INC. HEALTH
AND BENEFIT PLAN, GREAT WEST LIFE
& ANNUITY INS. CO., ACS RECOVERY
SERVICES,

Civil No. 09-1212-HU

Defendants.

HAGGERTY, District Judge:

Magistrate Judge Hubel referred to this court a Findings and Recommendation [45] in this matter. The Magistrate Judge recommends granting defendants' summary judgment motion in part, and granting plaintiff's summary judgment motion in part.

No objections were filed, and the case was referred to this court. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b). When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation of the Magistrate Judge. *Campbell*

v. United States Dist. Ct., 501 F.2d 196 (9th Cir. 1974).

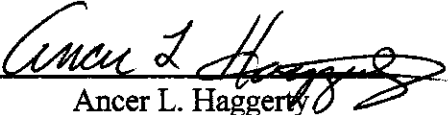
No clear error appears on the face of the record. This court adopts the Findings and Recommendation in its entirety.

CONCLUSION

The court adopts the well-reasoned Findings and Recommendation [45] in its entirety. The breach of contract claim at issue does not "relate to" the Genesis Investment Inc. Health and Welfare Plan and is not preempted by ERISA. Defendants are able to pursue reimbursement of paid medical benefits under applicable state statutes. The Plan's attorney fee provision is unenforceable. No future benefits may be withheld by defendants on the basis of the recovery from the insured John Bosch's liability insurance. Accordingly, defendants' Motion for Summary Judgment [18] is granted in part and denied in part, and plaintiff's Motion for Summary Judgment [25] is granted in part and denied in part.

IT IS SO ORDERED.

DATED this 14 day of March, 2011.


Ancer L. Haggerty
United States District Judge